



Land Conservation tools: the effective use of Agricultural Conservation Easements and the Williamson Act

Laura Westrup, Planning Division, CA State Parks

Introduction

Open space lands in the form of parks, green belts, agricultural lands, and preserves are important to the health and well-being of society. Perhaps this is best captured by a quote from Henry David Thoreau, “A town is saved, not more by the righteous men in it than by the woods and swamps that surround it.”

The purpose of this article is to provide a brief overview of agricultural conservation easements and the use of the Williamson Act (the California Land Conservation Act) to protect lands, and then direct the reader to other helpful resources and selected words of advice if one is considering entering into an agricultural easement or contract agreement.

Among the reasons why landowners place agricultural conservation easements on their land is that they often come from long-time farming/ranching families that want to continue working the land but need additional capital for family, business or estate purposes. As an added benefit, the landscape that they and their forbearers have enjoyed and worked hard to maintain will remain much the same for future generations of their family and others. In addition to preserving agricultural land, conservation easements can be more broadly used for many purposes – to maintain habitat lands, to buffer urban growth and prevent unwanted development, to preserve open space and a scenic landscape and to maintain productive farm/ranch lands among other reasons.

Agriculture is the cornerstone of California’s economy and this state is the nations leader in agricultural production. An orientation toward export crops has always given agriculture in California an industrial boost and the results have been remarkable. With gross receipts of \$30 billion a year, agriculture is one of California’s largest industries. However, California’s rapid urbanization has meant that agriculture has been forced to compete for land with urban developers who can typically afford to pay a higher price for land. The dilemma can be summed up in the

Conservation Easements are voluntary legal agreements, wherein a partial interest in property (typically the right to further develop residences or commercial sites on the property) is transferred to a non-profit or local government by gift or purchase. As ownership changes, land remains subject to the easement restrictions. The goal is to maintain the conservation values of the land by removing the development pressures from the land.

Williamson Act (California Land Conservation Act of 1965) was designed to preserve agricultural and open space lands by providing for ten-year term contracts (renewed annually) between private landowners and counties and cities to voluntarily restrict land to agricultural and open-space uses. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use, rather than potential market value.

following quote from the *Agricultural Land Conservation*, Great Valley Center, October 1998, Modesto Bee, “If your farming return is \$2,000 to \$3,000 per acre, and a developer offers you \$40,000 an acre, what are you going to do?” Stockton horse breeder and developer Fritz Grupe.

Conservation easements and the Williamson Act have been used by land trusts and local agencies for many years as effective tools for the protection of land from the march of urban development.

Although farm and rangeland are not often considered a “natural resource,” the lands do provide wide-spread protection for sensitive natural and cultural resources. Agricultural lands also provide a buffer to recreational areas such as beaches, rivers and trails that are adjacent to publicly owned properties and on rare occasions may provide public access if acceptable to the landowner. The variety of agricultural land uses including vineyards, row crops, cattle/sheep range lands and orchards, provide the twin benefits of open space and scenic values along with an economic gain to the community. Protected farm and grazing lands help protect migratory corridors for wide-ranging animals such as mountain lions, big horn sheep and Swainson’s Hawk which do not confine their movements to the boundaries of a park. Unfortunately, more and more of California’s farmlands are converted to urban uses. More than 27 million acres of land – more than a quarter of the entire state – is cultivated and thousands of acres of farmland are being converted to urban use every year.

"Private, local land trusts know their neighbors, and can work with willing sellers to help develop easement terms to meet the needs of their farm or ranch. Farmers and ranchers can work with their local land trust to access experts to help with the real estate issues and find funds to purchase the easement."

Aimee Rutledge, Executive Director
Sacramento Valley Conservancy

The Williamson Act

In 1965, California passed the Williamson Act (Government Code section §51200) with the intent of using the tax system to prevent premature urban conversion of agricultural land. This voluntary program takes advantage of ten-year restrictive use contracts between landowners and local governments. Cities and counties are not mandated to participate, as such, local attitudes towards the conservation of farmland steer the development of policy. The incentive for landowners entering into the Williamson Act is that the farm land is valued for property tax purposes according to the income it is capable of generating from agriculture and other compatible uses, rather than its fair market value where it may be valued substantially higher because of its development potential.

According to Farmland Information Center’s Website www.farmlandinfo.org/california/:
For California:

Farms	79,631
Land in farms (acres)	27,589,027
Total land area (acres)	99,813,971
Agricultural land converted to developed use (acres)	413,300

In exchange for lower taxes, agricultural landowners commit their land to farming for ten years. The contract is automatically renewed annually for an additional year unless either the land owner or the county files a “notice of non-renewal.” Farm owners may have the option to pay to remove their property from the Williamson Act in less than ten years through a cancellation process under specific circumstances. The program, administered at the

“Studies of the fiscal consequences of urban sprawl have found that residential development, especially the kind of low-density development that would take place in Sacramento Valley at the outskirts of urban centers, consumes more in public services than it pays in taxes, resulting in higher taxes for everyone.” Northern California Regional Land Trust

state level by the California Department of Conservation, reimburses counties for some of the lost property tax revenue.

In 1998, the state legislature went a step further by approving the Farmland Security Zone, also known as the Super Williamson Act (revenue and Taxation Code § 423.4). It provides a further 35 percent reduction in assessed property value in exchange for a 20-year commitment to farming. Today, approximately 16 million acres are currently protected under the Williamson Act. According to the Department of Conservation, 52 counties and 20 cities are currently using the Act and nearly 70% of the state's prime agricultural land is protected under the Act.

Agricultural Conservation Easements

Agricultural conservation easements are also important to park and recreation agencies for the buffer they provide between park resources, protection of valuable cultural and historic sites from urban encroachment and for their scenic, aesthetic and quality of life attributes. A conservation easement is also an effective voluntary, legally binding agreement and tool that limits certain types of uses from taking place on a piece of property, while protecting the property's ecological, scenic or open-space values.

“Measure twice, cut once. Legal counsel upfront is essential for documents that may end up in court, but having a mutually clear understanding with the land owner of what is allowed, not allowed, expected, and not expected is essential to avoiding future conflicts and fallout that could take you there.” Joe Donofrio, General Manager, Monterey Peninsula Regional Park District

The significant difference between Williamson Act contracts and agricultural conservation easements is that the easements are almost always permanent. In many areas, especially the Bay Area, the Central Coast and the Central Valley, land trusts accept conservation easements or land donations from landowners so that the land will not be developed. Where a development project would convert farmland to urban uses, local agencies sometimes require the placement of conservation easements on farmland elsewhere as development mitigation. These easements not only protect the underlying farmland, but they can be strategically placed to prevent cities from swallowing up surrounding fields and orchards.

When a landowner sells or donates a conservation easement, he or she retains fee-title ownership of the land, but transfers some of the other rights associated with the land. Conservation easements are individually tailored to protect targeted conservation values and to meet the landowner's needs. For example, the property owner might give up the right to build additional structures or subdivide the property while retaining the right to continue to grow crops. Future property owners will be bound by the easement's terms. Organizations holding or funding easements participate with the landowner in easement language negotiations, appraisal review and easement monitoring to ensure that the terms of the easement will be followed in perpetuity.

Lands subject to a conservation easement may qualify the landowner for property or inheritance tax benefits. The appraised market value of land is based on its “highest and best use,” which often means development. If a property's development rights are extinguished through a conservation easement, the land's value will typically be lowered – in turn, lowering property taxes for a landowner.

In 1995, the state initiated the California Farmland Conservancy Program (initially known as the Agricultural Land Stewardship Program), also administered by the California Department of Conservation. The program provides funding for cities, counties and non-profit land trusts to purchase agricultural conservation easements, obtain technical assistance, or improve agricultural land protected by easements.

To address grazing land specifically, the legislature enacted the California Rangeland, Grazing Land and Grassland Protection Program in 2002. The program is administered by the Wildlife Conservation Board (WCB) www.wcb.ca.gov and the intent of the program is to protect California's rangeland, grazing land and grassland by funding conservation easements.

Final Thoughts

In California, the top five counties in agricultural sales according to the U. S. Department of Agriculture are Fresno, Tulare, Monterey, Kern and Merced counties and according to the California Department of Finance, interestingly, three of these same five counties are the fastest growing per capita in California – Tulare, Kern and Merced – with Fresno not far behind. Increasingly and at an alarming pace for open space advocates and California's 118 land trusts, farmland is being gobbled up for other uses – housing tracts, roads and commercial development – hence the sense of urgency felt by many land trusts and local governments in securing funding and agreements.

In the California Farmland Conservancy Program: *Focus on Farmland*, newsletter of April 2006, Vol. 4, No. 3, *American Farmland Trust Releases Report on Central Valley Farmland, The Future is Now: Central Valley Farmland at The Tipping Point?* "The most successful farmland conservancies tend to operate in areas where urban development pressure is minimal or has been effectively controlled by local land use policies." The Trust reported in *Focus on Farmland*, www.conservation.ca.gov/dlrp/cfcp/FocusonFarmland.htm six disturbing trends:

1. Local land use plans call for efficient development that avoids the best farmland, but are mostly ineffective at fulfilling their intentions.
2. The most productive farmland is being developed the fastest.
3. The land is being developed very inefficiently – an acre of farmland is lost for every 8 new residents.
4. "Ranchettes" are proliferating and now occupy about one-third as much land as all urban development combined.
5. Speculation is driving farmland prices above what growers – and land trusts – can afford.
6. If current trends continue, by 2040 the Valley will lose another 880,000 acres with an agricultural output of \$800 million a year at the farm gate (in 2000 dollars).

For more information about participation in the Williamson Act, contact your local county assessor's office, or the California Department of Conservation at (www.conservation.ca.gov), 916 324-0850. Many resources are available regarding conservation easements; including local land trusts or the national non-profits American Farmland Trust www.farmland.org, 530 753-1073 or the Land Trust Alliance (www.lta.org), 202-638-4725. If your organization is contemplating accepting a conservation easement, know that they can be very complex real estate transactions, and professional advice is essential.

When contemplating agricultural land preservation, there are many considerations such as strategic placement and planning, preferred agricultural locations, local government revenue generation, changing agricultural and real-estate markets, and the like. It is challenging to protect agricultural lands even with the Williamson Act and agricultural conservation easement tools. Because the decisions are ultimately made at the individual landowner and local government level, local land use decisions must reflect the value of agricultural conservation and a commitment to agricultural zoning in order to protect California's world-class agricultural resources for future generations.

Selected Resources:

American Farmland Trust, www.farmland.org/default.asp

California Council of Land Trusts, www.cclt.org

The California Environmental Information Catalog, The CaLSIP Data Catalog,
www.ceres.ca.gov/calsip/catalog.html

California Department of Conservation, www.conservation.ca.gov

California Legacy Project Archive, www.legacy.ca.gov

California Rangeland Trust, www.rangelandtrust.org

California Wildlife Conservation Board, www.wcb.ca.gov

Farmland Information Center, www.farmlandinfo.org/

Federal Farm and Ranchlands Protection Program, www.ca.nrcs.usda.gov/programs/frpp.html

Great Valley Center www.greatvalley.org

Hearst Ranch Conservation Plan, www.resources.ca.gov

Land Trust Alliance, *The Conservation Easement Today: Revised Handbook Reflects Lessons Learned in 17 Years*, www.lta.org/

The Nature Conservancy, *Conservation Easements, Conserving Land, Water and a Way of Life*, April 29, 2004. www.nature.org/aboutus/howwework/conservationmethods

Northern California Regional Land Trust, www.landconservation.org

Trust for Public Land, www.tpl.org

U. S. Department of Agriculture, Economic Research Service, California
www.ers.usda.gov/StateFacts/CA.htm

Valley Legal Letter, Michele Clark, Attorney at Law, Legal topics explained for Central Valley Land Trusts, Great Valley Center Publications, Fall 2005, www.greatvalley.org

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